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16 **THE UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

18 TRENTON SMITH, individually and
19 on behalf of all others similarly
20 situated,

21 Plaintiffs,
22 vs.

23 JOHN SHAHIDI, an individual;
24 NELK, INC. dba NELK, FULL
25 SEND, a Canadian Company,
26 METACARD, LLC, a Delaware
27 Limited Liability Company; NELK
USA, INC., a Delaware Corporation;
KYLE FORGEARD, an individual.

28 Defendants.

) Case No.: 8:25-cv-161-FWS-DFM
)
)) [Discovery Document: Referred to
)) Magistrate Judge Douglas F.
)) McCormick]
)
)) **PLAINTIFF'S SUPPLEMENTAL**
)) **BRIEF IN SUPPORT OF**
)) **PLAINTIFF'S MOTION TO**
)) **COMPEL FURTHER**
)) **RESPONSES TO DISCOVERY**
))
)) Hearing Date: Oct. 14, 2025
)) Time: 10:00 a.m.
)
)) Discovery Cut Off: April 9, 2026
)) Pretrial Conference: Oct. 29, 2026
)) Trial Date: Nov. 17, 2026
)
))

1 **TO THIS HONORABLE COURT AND ALL PARTIES AND THEIR
2 ATTORNEYS OF RECORD:**

3 Plaintiff Trenton Smith (“Plaintiff” or “Smith”) hereby submits the following
4 Supplemental Memorandum in Support of Plaintiff’s Motion to Compel Further
5 Responses to Discovery and the Protective Order pursuant to Local Rule 37-2.3.

6 **I. INTRODUCTION**

7 Defendant Nelk, Inc., Nelk USA, Inc., and Metacard, LLC’s (“Defendants” or
8 “Nelk”) Opposition is based not on the merits, but instead on an effort to delay. In
9 doing so, Defendants misrepresent Plaintiff’s position and ignore the Scheduling
10 Order (DE) entered in this matter. The Court permitted Plaintiff leave to further plead
11 scienter in this fraud case.

12 **II. PLAINTIFF NEVER AGREED THAT ONLY ONE ISSUE IN DISCOVERY WAS
13 REQUESTED FOR CLASS CERTIFICATION**

14 Defendants suggest that Plaintiff’s agreed that only one issue was needed for
15 their class certification motion. That is not true. That is why there is nothing in writing
16 suggesting that position. Instead of indicating that each item was needed for class
17 certification and also trial, Plaintiff simply pointed out in multiple correspondences
18 why specific discovery was necessary. *See* Kristensen Decl., ¶¶ 2-9, Ex. 1-5.

19 **III. THE SCHEDULING ORDER IS CLEAR – DISCOVERY IS NOT PHASED**

20 Defendants’ argument about phasing discovery is misplaced. On May 19,
21 2025, the Court set a briefing schedule for challenges to the operative Complaint,
22 but denied a stipulation to have the scheduling conference after the hearing on the
23 motion to dismiss. *See* Dkt. 54, p. 3:10-13, Dkt. 56, p. 3:8:18.

24 In the subsequent Joint Rule 26(f) Report filed on May 25, 2025, the parties
25 jointly stated:

26 The parties do not believe discovery should be conducted in phases, other
27 than in separating the fact discovery from expert discovery, as contemplated

1 by the Court's scheduling order and submission by the Parties in accordance
2 therewith.

3 *See* Dkt. 61, p. 7:20-25.

4 The Court then set the Scheduling Order. *See* Dkt. 63.

5 Plaintiff's counsel's declaration to continue the October 2, 2025, class
6 certification deadline stated the following:

7 3. The Parties have been diligently pursuing discovery and continue to
8 meet and confer on issues relevant to class certification.

9 4. The Parties have engaged in written discovery, document production,
10 and the identification and noticing the deposition of a director for Defendants, and
11 attempts to schedule another witness, Judd Warshaw. Plaintiff served written
12 discovery to Defendants (Interrogatories and Requests for Production) on or about
13 July 7, 2025. Defendants served responses on August 6, 2025. Plaintiff sent
14 correspondence seeking L.R. 37-1 conferences on August 14, 2025, August 22,
15 2025, September 1, 2025 and September 3, 2025. Three Zoom conferences
16 occurred on August 22, 2025, September 2, 2025, and September 9, 2025.

17 *See* Dkt. 76.1, p. 2:12-21.

18 Discovery was never phased. Plaintiff never differentiated some discovery
19 for phasing. Nothing in Plaintiff's communications state that Plaintiff only sought
20 some discovery for class certification. Defendants have not produced any
21 declarations that the discovery is unduly burdensome. They are simply seeking to
22 cut Plaintiff's right to discovery off five months after they agreed not to phase
23 discovery. "The party opposing discovery is 'required to carry a heavy burden of
24 showing' why discovery should be denied." *Reece v. Basi*, No. 2:11-cv-2712 TLN
25 AC P, 2014 WL 2565986, at *2 (E.D. Cal. June 6, 2014), *aff'd*, 704 F. App'x. 685
26 (9th Cir. 2017) (quoting *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir.
27 1975)).

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1 Plaintiff sought the following information, and it is all relevant towards class
2 certification or at this point.

3 Discovery Request	4 Aimed At Merits and Class Cert.
5 Sought the identification of witnesses 6 (Rog 2)	7 Who was involved is basic discovery.
8 Putative Class Members (Rog 3)	9 Only item Defendants agreed to 10 supplement.
11 Allocations of the Distribution by 12 Defendants After Receiving \$23M 13 (Rog 7 and 8)	14 Common Scheme – Predominance.
15 Insurance Policies without Objections 16 (DFP 1)	17 Rule 26
18 Corporate structure and employee 19 flowcharts of the entities, including 20 corporate minutes about Metacard. 21 (DFP 2, 24, and 27)	22 Common Scheme – Predominance.
23 Roles involved in the Metacard NFT 24 project (DFP 3)	25 Who was involved is basic discovery.
26 Contracts related to the Metacard NFT 27 project (DFP 4)	28 Common Scheme – Predominance.
29 Distribution of the \$23 million (DFP 6)	30 Common Scheme – Predominance.
31 Financial and accounting documents, 32 marketing, investment related 33 documents, complaints and buyback 34 programs, disclaimers and terms with 35 purchasers of NFTs (DFP 7 to 23, 26, 36 27 28)	37 Common Scheme – Predominance.

1	Documents to or from specific	Common Scheme – Predominance.
2	individuals regarding the Metocard	
3	NFT project and the Bored Jerky Plan	
4	(DFP 29 to 54)	

5 The responsive documents are relevant towards class certification and the
6 merits. Almost any document or discovery request is in this fraud case. Precluding
7 Plaintiff from discovery as premature when it can be used to show a common
8 scheme materially prevents Plaintiff from certifying the class.

9 **IV. CONCLUSION**

10 Defendants need to supplement their responses, withdraw the objections, and
11 produce the responsive documents.

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Respectfully Submitted,

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Dated: September 30, 2025

KRISTENSEN LAW GROUP

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/s/ John P. Kristensen

John P. Kristensen

Attorney for Plaintiffs

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CERTIFICATE OF SERVICE

I certify that on Tuesday, September 30, 2025, a true and correct copy of the attached **PLAINTIFF'S SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL FURTHER RESPONSES TO DISCOVERY**, was served via CM/ECF to all participants of record, pursuant to Fed. R. Civ. P. 5:

/s/ John P. Kristensen
John P. Kristensen